

# RECLASSIFICATION PLANNING PROPOSAL 261 MONA VALE RD, ST IVES; 1186-1188 PACIFIC HWY, PYMBLE; 1192 PACIFIC HWY, PYMBLE

## EXECUTIVE SUMMARY

<b>PURPOSE OF REPORT:</b>	For Council to consider a Planning Proposal to reclassify land at 261 Mona Vale Rd, St Ives, 1186-1188 Pacific Hwy, Pymble, and 1192 Pacific Hwy, Pymble from Community to Operational land.
<b>BACKGROUND:</b>	<p>The three sites are under-utilised and require substantial financial outlay to upgrade and/or improve their useability and value to Council as a community facility or as an asset. The deterioration of the sites and buildings have resulted in reduced tenancy interest, prolonged vacancy, and/or inability to command competitive rentals.</p> <p>On 16 March 2021 and 24 May 2022 Council discussed its land holding strategy and resolved to prepare Planning Proposals for the three sites. Councillors were most recently briefed on asset disposal matters on 10 February and 22 May 2023, building on a number of briefings in 2022. The Planning Proposal was reported to the Ku-ring-gai Planning Panel on 20 February 2023. The Panel advised the that the proposal should proceed to Gateway subject to provision of additional information.</p>
<b>COMMENTS:</b>	<p>A reclassification Planning Proposal has been prepared for Council's consideration. Reclassification will enable the orderly and economic use of the sites, irrespective of whether they are sold or retained.</p> <p>Reclassification will not alter the attributes of the sites but will broaden Council's options for its assets, including repurposing to attract a wider range of tenants and possible future divestment.</p> <p>The proposed reclassification is consistent with strategic planning policies and directions including Council's <i>Community Strategic Plan</i>, <i>Local Strategic Planning Statement</i>, and the wider objectives and priorities of the <i>Greater Sydney Region Plan: A Metropolis of Three Cities</i>, and the <i>North District Plan</i>.</p> <p>A Councillor site visit was conducted on 13 April 2023.</p>
<b>RECOMMENDATION:</b> (Refer to the full Recommendation at the end of this report)	That the Planning Proposal be submitted to the Department of Planning and Environment for Gateway Determination, and that upon receipt of a Gateway Determination, the exhibition, public hearing and consultation process is carried out, and a report be brought back to Council.

## PURPOSE OF REPORT

For Council to consider a Planning Proposal to reclassify land at 261 Mona Vale Rd, St Ives, 1186-1188 Pacific Hwy, Pymble, and 1192 Pacific Hwy, Pymble from Community to Operational land.

## BACKGROUND

This Planning Proposal seeks an amendment to the Ku-ring-gai Local Environmental Plan 2015 to reclassify three Council-owned sites from Community land to Operational land. The sites are at:

- 261 Mona Vale Road, St Ives;
- 1186-1188 Pacific Highway, Pymble; and
- 1192 Pacific Highway, Pymble.

The three sites are under-utilised and require substantial financial outlay to upgrade and improve their facility. Council has no long-term plans for the three sites which would warrant their retention or significant ongoing expenditure.

Reclassification and discharge of some interests will increase useability and attraction of tenants and broaden Council's options for its assets.

**Community land** is land Council makes available for use by the general public, for example, parks, reserves or sports grounds. Section 45 of the *Local Government Act 1993* states Community land cannot be sold, exchanged or otherwise disposed of by Council.

**Operational land** is land which facilitates the functions of Council, and may not be open to the general public, for example, a works depot. An operational classification permits Council to sell, exchange or grant an interest to another party in accordance with the provisions of the *Local Government Act 1993*. Operational land enables a wider range of uses on land and enables Council to secure a range of tenancies at commercial rates.

## Council Resolutions to prepare and progress Planning Proposals for the three sites

At the Ordinary Meeting of Council on 16 March 2021, a confidential report on Council's land holdings strategy was considered. Council resolved to prepare and progress a Planning Proposal to reclassify the land at:

- 261 Mona Vale Road St Ives (lot 31 DP 719052); and
- 1186 Pacific Highway, Pymble (Lot 1 DP 86583).

At the Ordinary Meeting of Council on 24 May 2022 Council resolved that:

- E. In relation to Community land that is surplus to Council's requirements, that a Planning Proposal be prepared and submitted for a Gateway Determination under section 3.34 of the Environmental Planning & Assessment Act 1979 to reclassify 1192 Pacific Highway, Pymble (Lot 8 DP 30236) from Community Land to Operational land. That the Planning Proposal/s be referred to the Ku-ring-gai Local Planning Panel in accordance with the Ministerial Direction Local Planning Panels Direction – Planning Proposals.*

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Council is relying on divestment surplus land holdings to the fund co-contributions for infrastructure works identified in various contributions plans, as well as its contribution to the Lindfield Village Hub project.

A number of residual parcels of land have been identified as surplus to Council requirements or not required for longer term provision of community facilities or open space.

The potential of these land parcels can be realised through re-purposing or divestment, both of which require the land to be reclassified from Community land to Operational land.

### **Ku-ring-gai Planning Panel Advice**

This matter was considered by the Ku-ring-gai Planning Panel on 20 March 2023. The Panel advised as follows:

- A. *The Ku-ring-gai Local Planning Panel advises Council as follows for each of the properties subject of the Planning Proposal:*
- *261 Mona Vale Road, St Ives – that the matter proceed to a Gateway Determination.*
  - *1186-1188 Pacific Hwy, Pymble - that the matter proceed to a Gateway Determination supported by a Conservation Management Plan to guide the potential use, management and change to the site.*
  - *1192 Pacific Hwy, Pymble – the Planning Proposal should be amended to state that the development consent for 1190 Pacific Hwy, Pymble has lapsed and that the matter proceed to a Gateway Determination.*
- B. *Date of the Advice: 20 March 2023*

### **Councillor Site Inspection**

A site inspection with Councillors was conducted on 13 April 2023.

The inspection notes may be seen at **Attachment A1**.

### **OMC 20 June 2023**

This report was tabled as GB 11 at the 20 June 2023 OMC where Council resolved:

- That GB.11 - Reclassification Planning Proposal 261 Mona Vale Rd, St Ives; 1186-1188 Pacific Hwy, Pymble; 1192 Pacific Hwy, Pymble be deferred, as one of the St Ives Ward Councillors was an apology.

Moved by the Mayor and Councillor Smith and was carried unanimously.

The same report and attachments are presented herein.

## COMMENTS

### Overview

**Uses permitted under Community classification are highly limiting and restrict opportunities for the sites.**

- Even with the discharge of the Covenant constraints and changes to any restrictive Plans of Management that apply to the site, the Community classification will continue to limit the permitted uses on the land.

**Operational classification will provide Council options on the management of its land parcels:**

- It takes away the constraints of the Community classification short term leases available to tenants and associated requirements to apply to the Minister for Local Government.
- It would enable straightforward negotiation on long term 30+ year leases and a more likely agreement on tenant responsibility and outlay of significant finances to upgrade and maintain deteriorated sites.
- It offers Council the greatest flexibility to invite enterprising and creative private sector interest/involvement in the conservation and operation of the buildings including adaptive re-use.
- It would enable Council to gauge market interest through placement of an EOI, with limited risk to Council's reputation on the genuine offer to engage with the private sector for the upkeep of the sites and their buildings.
- To explore private sector interest in any proposal for the commercial use of the sites, a public expression of interest process would be undertaken in accordance with Council's procurement requirements. However, the land parcel would require a granted Operational classification amendment in the KLEP 2015, subject of the current Planning Proposal, to proceed.
- Reclassification enables consideration of divestment as an option subject to further investigation, reporting and a resolution of Council

### Proposed amendments to Ku-ring-gai Local Environmental Plan 2015

BBC Consulting Planners have been engaged by Council to prepare a Planning Proposal in relation to Council's resolutions of 16 March 2021 and 24 May 2022.

The Planning Proposal for the three sites may be viewed at **Attachment A2**.

The Planning Proposal seeks to amend the *Ku-ring-gai Local Environmental Plan 2015* to achieve the following outcomes:

- Reclassify the three sites from Community land to Operational land, discharge covenants and retain water and sewer easements where appropriate, to enable the orderly and economic use of the sites in line with Council's policies and directions.
- Ensure that planning within the Ku-ring-gai LGA appropriately supports the objectives of relevant planning policies and plans, including the *Greater Sydney Region Plan: A Metropolis of Three Cities*, and the *North District Plan* and Ku-ring-gai Council's plans

and strategies including the *Community Strategic Plan 2032*, the *Local Strategic Planning Statement*, the *Community Facilities Strategy (Part 1)* and the *Open Space Acquisition Strategy 2006*.

The objective of the Planning Proposal is to:

- enable greater flexibility around the use and management of Council's assets to give Council more choice in its decision making on the best financial and facility outcome for the broader Ku-ring-gai community;
- enable Council to meet community expectations for projects and service delivery, particularly for renewal and replacement of assets as well as capital works scheduled in Council's Long Term Financial Plan; and
- enable Council to consider options for divestment of surplus land holdings to fund co-contributions for infrastructure works identified in various contributions plans.

### Consistency with strategic planning framework

The proposed reclassification of the sites is consistent with the following strategic planning documents as demonstrated in the attached Planning Proposal (**Attachment A2**):

- The *Greater Sydney Region Plan - A Metropolis of Three Cities*
- The *North District Plan*
- Ku-ring-gai Council *Local Strategic Planning Statement*
- Ku-ring-gai Council Strategies and Plans including:
  - *Community Strategic Plan 2032*
  - *Resourcing Strategy 2022-2032*
  - *Long Term Financial Plan*
  - *Asset Management Strategy*
  - *Community Facilities Strategy – Part 1 Libraries and Community Centres (2018)*;
  - *Ku-ring-gai Open Space Acquisition Strategy (2006)*;
  - *Ku-ring-gai Recreational Needs Analysis Study (2001)*.

### Benefits of reclassification for the three sites

*Local Government Practice Note 1 (May 2000)* describes the restriction of uses on sites classified as Community land:

#### *2.2 Classification of public land*

*All public land must be classified by council as either "community" or "operational" land (ss.25 – 26). The main effect of classification is to restrict the alienation and use of the land.*

*"Operational" land has no special restrictions other than those that may apply to any piece of land.*

*Community land is different. Classification as community land reflects the importance of the land to the community because of its use or special features. Generally, it is land intended for public access and use, or where other restrictions applying to the land create some obligation to maintain public access (such as a trust deed, or dedication under section 94 of the*

*Environmental Planning and Assessment Act 1979). This gives rise to the restrictions in the Act, intended to preserve the qualities of the land. Community land:*

- *cannot be sold*
- *cannot be leased, licenced or any other estate granted over the land for more than 21 years*
- *must have a plan of management prepared for it.*

The *Local Government Act 1993* provides in depth explanation of Community land uses at Section 35 to 47F. Amongst other details, this section outlines the powers afforded to Council to use and manage community land. It states how community land is to be managed by Council through Plans of Management and legislation, the dealings Council can have in community land such as leases, as well as what powers Council has to develop on community land. It lists the categorisation of Community land which can only be one or more of the following: a natural area, a sportsground, a park, an area of cultural significance, or general community use.

Reclassification of sites from Community to Operational land enables a wider spectrum of uses for Council assets, giving Council flexibility on how it utilises or leases its assets, and enabling Council to assign the highest purpose for its assets.

### **Description of the three sites, uses and restrictions**

#### **SITE 1: 261 Mona Vale Rd, St Ives (Lot 31 in DP 719052)**

- The site is located at the intersection of Mona Vale Road and Link Road, St Ives.
- It is adjoined to the east and south by educational establishments and a childcare centre beyond which is high rise residential development.
- The land is generally flat and has an area of 1,371m<sup>2</sup>, with a frontage of approximately 39 metres to Link Road and 33 metres to Mona Vale Road.
- The land is currently zoned R4 High Density Residential with similar standards to adjacent land at FSR 1.3:1 and 17.5m height.
- The site comprises a former residence converted for use as a childcare centre with limited on-site parking and a left in from Mona Vale Road, left out to Link Road access.
- The site was previously leased to a not-for-profit community organisation as an Occasional Child Care Centre for in excess of 20 years. Despite a highly concessional rent the lessee voluntarily surrendered the lease in December 2020 citing the operation was not viable.
- On departure, the premises were left in a generally poor condition requiring a new fit-out and internal and external maintenance works at significant cost to both Council and the incoming tenant.



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- Following a tender process in 2022, Council secured a new commercial tenant who has agreed to pay a market rent as well as undertake the necessary refurbishment works to operate an early learning centre consistent with current planning approval which provides for the accommodation of up to 25 children up to the age of 5 years old.
- However, to increase capacity or extend the hours of operation, the building would require substantial upgrade works to make the premises compliant with new standards and appeal to a wider tenancy able to offer improved rental rates.

***Benefit of reclassification of 261 Mona Vale Road, St Ives:***

- The building on this site is dated and although it may continue to operate as a child-care facility, it does not meet current standards and requirements for new childcare facilities as reflected in Part 3.3 of State Environmental Planning Policy (Transport and Infrastructure) 2021; Children (Education and Care Services) National Law (NSW) N 2010; Education and Care Services National Regulations 2011; Children (Education and Care Services) Supplementary Provisions Regulation 2012.
- Without substantial financial outlay the building and its standard of provision cannot into the future compete with emerging childcare facilities in the locality and has limited capacity to maximise and increase future financial returns for Council.
- Substantial upgrades are required to modernise the facility to command the rentals appropriate to its location.
- Reclassification to Operational land will provide flexibility in both the site's tenancy and possible divestment, to enable Council to receive an adequate return on investment consistent with Council strategies, and consistent with the objects of the EP&A Act to encourage the orderly and economic use of land.
- Given the long term and on-going use of this site under a lease arrangement, Community Classification is not appropriate.

**SITE 2: 1186-1188 Pacific Hwy, Pymble (Lot 1 in DP 86583)**

- Details regarding financial matters, restrictions and adaptive uses are provided at **Attachment A3.**
- The site is located to the south-west side of the Pacific Highway, Pymble approximately 320 metres from Pymble train station with bus services along the highway. The rear of the site adjoins the North Shore and Western rail line
- Access into the site is limited to one single left in and left out directly onto the Pacific Highway.
- The surrounding area is characterised by a mix of medium to high density residential and commercial uses. The land is currently zoned R4 High Density Residential with additional permitted uses that include commercial premises, entertainment facilities and function centres. It has with a maximum 0.5:1 floor space area and 9.5m height reflecting current onsite standards. These standards may need to be revisited as part of any future masterplanning process.
- The land has an area of 5,356m<sup>2</sup> with a frontage to the Pacific Highway of 65.52 metres and a depth of approximately 83 metres. The site falls to the south-west, with carpark



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located behind the buildings, beyond which the land falls steeply to the railway line at its rear.

- The site contains the Ku-ring-gai Town Hall (former Church) and Presbytery with a car park. The site, including the Ku-ring-gai Town Hall and the Presbytery, are heritage listed (Item No 172).
- The Ku-ring-gai Town Hall facilities include store and dressing rooms, kitchen, toilets, auditorium with stage and gallery. The Presbytery is a two storey building associated with the former church and comprising a number of bedrooms and associated living areas.
- Ku-ring-gai Town Hall is a large space, approximately 300m<sup>2</sup>, used for large Council or community events and available for casual hire. Although a number of groups hire the space, certain parts of the building are closed indefinitely due to rising damp.
- The Presbytery Building, previously used as the Performing Arts Resource Centre, remains vacant due to its poor condition.
- Both buildings require substantial repair to modernise them and bring them in line with similar sized facilities commanding higher rentals. Refer to **Attachment A3**.
- Council has previously sought to reclassify the land on two occasions to enable improved opportunities for its use and refurbishment:



- In 1994, Council resolved to classify the site as operational land, in accordance with Clause 6(3) of Schedule 7 of the Local Government Act 1993. There is uncertainty as to whether the land was subsequently reclassified as community land. Consequently, and consistent with LEC case law, this site is included in this Planning Proposal.
- At its meeting on 30 April 2013, Council resolved to prepare a Planning Proposal to reclassify a number of sites from Community land to Operational land, including the subject site.

The reclassification Planning Proposal covering multiple sites was prepared, exhibited and forwarded to the then Department of Planning and Environment for finalisation.

The Department took considerable time, approximately 2 years, to consider the multiple sites. Eventually the Minister's delegate deferred decision on this and other sites noting that they required further consideration.

- To ensure further and updated consideration of the reclassification of this site, this Planning Proposal process has been commenced from scratch, rather than relying on the previous multiple site proposal submitted to the Department for Gateway.



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- Full consideration has now been given to the strategic and site-specific merit of the reclassification of 1186-1188 Pacific Hwy, Pymble and is presented in the Planning Proposal subject of this report.
- The significance and complexity of this site would arguably benefit from a similar approach to that taken by Council in respect of the Lindfield Library site. That site was de-risked, and significant value uplift achieved, by Council preparing and lodging a development application following a masterplanning process. While not entirely guaranteed insofar as a future owner might lodge a DA modification, there is significant certainty in relation to exactly what the urban form outcome would be for that site.

***Benefit of reclassification of 1186-1188 Pacific Highway, Pymble:***

- Refer to **Attachment A3** for details on the condition and options for this site.
- Council's Community Facilities Strategy proposes a network of community facilities in Ku-ring-gai that work together to collectively meet the needs of the community. This includes new large centrally located multi-purpose facilities that can adapt to changing community needs and provide accessible and flexible spaces to suit a range of services and uses. These facilities offer community provisions that are in line with current standards and attractive in the current market including commanding rates consistent in the market.
- Ku-ring-gai Town Hall and Presbytery are underutilised and comprise spaces that cannot be readily adapted for alternative community uses. This is exacerbated by the poor condition of the buildings and the substantial works required to attend to the damp, mould, and leaking issues in both buildings.
- The reclassification of the site widens opportunities for alternative use of the buildings to attract new, higher paying tenants (provided the substantial financial outlay is available for repair and restoration of the heritage items); and, opportunity to consider possible future divestment to release funds for the provision of community facilities in accordance with Council's strategic plans and policies.
- The site is a Heritage Item. The preparation of a Conservation Management Plan (as advised by the Ku-ring-gai Planning Panel) , will outline what the heritage significance is of the place and how changes are to be managed over time to ensure the heritage significance is retained.
- The Conservation Management Plan will accompany the reclassification proposal to ensure the heritage integrity of both the Town Hall and Presbytery is maintained through any future potential use, management and change to the site.
- Given the previous long term use of this site under a lease arrangement, Community Classification is not appropriate. Community classification and a restrictive plan of management have led to the Presbytery being vacant for a number of years.

**SITE 3: 1192 Pacific Hwy, Pymble (Lot 8 in DP 30236)**

- The site is located in the area between the Pacific Highway to its north-east and the northern railway line to its south-west.
- It is surrounded by high density residential development to the north, south and west with a mix of residential and commercial uses on the eastern side of the highway.

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- The site is zoned R4 High Density Residential with similar standards to adjacent land at FSR 1.3:1 and 17.5m height.
- The adjacent site to its south at 1190 Pacific Hwy remains the only undeveloped neighbouring site. This land has recently had a change in ownership. It also had a DA approval for an apartment building which has recently lapsed.
- The site is mapped as having biodiversity meaning its vegetation is protected under the KLEP 2015. The proposed reclassification will not affect the onsite trees and vegetation.
- The land has an area of 974m<sup>2</sup> with a frontage to Pacific Highway of 22.3 metres and a depth of 45.5 metres.
- Access is only available from Pacific Highway. Vehicles have to reverse in or out from Pacific Highway onto the site's concrete parking platform for 1-2 cars, adjacent to Pacific Highway. To ensure safe access, the structural integrity of the parking platform requires investigation, as well as its conformity to current safety standards.
- The site has extremely poor accessibility for both vehicles and pedestrians. The difficult access has highly compromised Council's ability to successfully maintain the site as transporting machinery into the site remains problematic.
- The site drops steeply from Pacific Highway and is of sloping terrain, with approximately a 3-6 metre drop from the highway and across the site; and, access is only available via a staircase at the rear of the concrete parking platform on Pacific Highway.
- The site has become progressively isolated and access has become increasingly difficult with apartment developments along the northern and western boundaries and a recently lapsed DA approval for a 5 storey apartment building to the southern boundary at 1190 and 1190A Pacific Highway.
- The site is under-utilised and has had anti-social activities due to its hidden nature. Surveillance of activity on the site is highly compromised and the location does not meet with 'Safety by Design' and 'Crime Prevention Through Environmental Design' (CPTED) principles in terms of passive surveillance making it a likely candidate for ongoing anti-social behaviour.
- Its size and topography preclude the ability of this site to provide meaningful community facilities without disproportionate spending.
- The site is currently vacant. Previous uses included parking of Sydney Water vehicles.



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- Site maintenance is increasing difficult and expensive with equipment and materials having to be craned onto the site. This will become impossible when adjoining sites are developed.

***Benefit of reclassification of 1192 Pacific Highway, Pymble:***

- This site has remained vacant and unused since its acquisition in 1979. It provides no community benefit, and its steep fall from the highway coupled with sloping terrain and poor location has prevented its effective use as a park. The site has not been utilised as open space and has repeatedly been discussed as a liability.
- The site has been unable to be effectively used for public open space. Council's *Open Space Acquisition Strategy* requires new parks to have an area greater than 3000sqm to provide for maximum passive recreation opportunity. This site is less than 1,000sqm with no potential for future expansion due to adjoining developments. The site is heavily impacted by noise and pollution from the Pacific Highway with very poor accessibility and safety surveillance.
- The *Ku-ring-gai Open Space Acquisition Strategy 2006* sets out a formal acquisition process that is underpinned by probity, due diligence, analysis of risk and ensures impartiality, transparency and accountability. It establishes principles, criteria and priorities for acquiring open space in Ku-ring-gai. In addition, Council has developed an *Open Space Acquisition Program* to deliver much needed local parkland for the community.
- The site has not been declared a public reserve.
- Approximately half of the site is affected by easements for water and sewerage purposes. These interests will not be discharged and will remain as a constraint on the land.
- The land contains remnant vegetation protected through biodiversity mapping. This would remain intact regardless of the site's future use and ownership.
- Reclassification of the land would enable other options to be considered for the site including divestment. This would transfer cost of management, care, surveillance, and use of the land, including the onsite vegetation, possibly to adjacent landowners who currently benefit from their proximity to the site.
- This site was acquired by Council in 1979 using funds from an open space contributions trust fund. This predates Council's development contributions plans and the Ku-ring-gai Open Space Acquisition Strategy. Nevertheless, should the site be divested in the future, the proceeds from any sale would need to be reserved for open space acquisition.
- The *Ku-ring-gai Contributions Plan 2010* provides funding for land acquisition, design and construction of new parks and civic spaces. Funding from any site acquired through contributions for open space, if divested, is reallocated directly into acquisition of other more suitable open space. Council has been actively acquiring land and converting the land to new parks. To date Council has created, or is in the process of creating, over 25,000sqm of new parks and civic spaces.

## Conclusion

- Operational classification will allow Council flexibility in the management, enable alignment with Council's current adopted standards and strategies, and provide greater efficiencies in the financial planning for these assets.
- Any repurposing or future divestment of the three sites, that result from reclassification, would assist Council in meeting community expectations for the renewal and replacement of community infrastructure.
- Council has insufficient funding in the Long Term Financial Plan to sustainably manage and improve its existing infrastructure assets including standards of community facilities to meet community expectations. The deterioration of standards is clear on the three sites that are the subject of this Planning Proposal.
- Reclassification of the three sites to Operational Land will provide Council improved options on the use and purpose of the sites.
- It is noted that any future divestment proposal would require further consideration and would be subject to a separate resolution by Council.

## Next steps in the reclassification process

The following steps will be required to progress the Planning Proposal following the advice of the Ku-ring-gai Local Planning Panel:

1. prepare a Conservation Management Plan for 1186-1188 Pacific Highway, Pymble, as advised by the Ku-ring-gai Local Planning Panel;
2. submit the Planning Proposal to the Department of Planning and Environment for Gateway Determination;
3. if granted a Gateway, conduct public consultation including public exhibition, public hearing and any required State Agency consultation; and
4. report back to Council following all public consultation.

## INTEGRATED PLANNING AND REPORTING

Theme 3: Places, Spaces and Infrastructure

Theme 6: Leadership and Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1: Council rigorously manages its financial resources and assets to maximise delivery of services	L2.1.3: Council maintains its commitment to infrastructure asset management priorities	L2.1.3.1: Identify available funding sources in the Long Term Financial plan and allocate to priority projects and assets
P2.1: A robust planning framework is in place to deliver quality design outcomes and maintain the	P2.1.1: Land use strategies, plans and processes are in place to effectively manage the impact of new development	P2.1.1.2: Continue to review the effectiveness of existing strategies, local environmental plans, development control

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
identify and character of Ku-ring-gai		plans and processes across all programs

## GOVERNANCE MATTERS

The process for the preparation and implementation of Planning Proposals is governed by the provisions contained in the *Environmental Planning and Assessment Act 1979* (EPA Act) and the *Environmental Planning and Assessment Regulation 2000*. Section 3.36(2) of the EPA Act outlines that following the completion of community consultation, the local plan making authority may:

- a) Make a local environmental plan, either with or without variation.
- b) Decide to not make the proposed local environmental plan.

Given Council is the landowner, it cannot seek delegation to make the plan. Should Council resolve to adopt the Planning Proposal, it will be submitted to the Department of Planning and Environment with a request to make the plan.

Community land is land Council makes available for use by the general public, for example, parks, reserves or sports grounds. Section 45 of the *Local Government Act 1993* states Community land cannot be sold, exchanged or otherwise disposed by Council.

Operational land is land which facilitates the functions of Council, and may not be open to the general public, for example, a works depot. An operational classification permits Council to sell, exchange or grant an interest to another party in accordance with the provisions of the *Local Government Act 1993*. Operational land enables a wider range of uses on land and enables Council to secure a range of tenancies at commercial rates without Ministerial approval.

Divestment is where Council considers the best outcome for a site is its divestment due to a site's ineffectual provision of community facility or financial return, any future divestment would be subject to a separate Council resolution and would be undertaken in accordance with Council's *Acquisition and Divestment of Land Policy 2019*.

## RISK MANAGEMENT

Under-utilisation and limited interest from prospective tenants due to limited funds to upgrade and maintain Council's assets at a level comparable to the market, and the limitation of allowed uses on Community classified land places Council at both financial and reputational risk due to inability to service its community at a quality level.

Reclassification of the three sites provides Council the opportunity to consider the options for repurposing and/or divestment to facilitate improved community facilities across the LGA whilst balancing Council's financial burden.

There is a risk to Council's overall budget position if asset sales are not achieved. There is also a reputation risk to Council if it fails to proceed with social infrastructure projects which rely on asset sales for funding.

## FINANCIAL CONSIDERATIONS

The cost of preparing the Planning Proposal and associated studies is covered by the Urban Planning - Strategy and Environment Department budget and capitalised against any asset proposed for disposal.

The reclassification of the three sites will assist Council to effectively manage its financial position to meet community expectations for new projects by ensuring competitive tenancy returns or divestment value.

The adopted 2022/23 LTFP had asset sales funding of \$111m. This was allocated to Marian Street Theatre redevelopment (\$22m), Infrastructure renewal (\$36m), co-contributions to projects funded from s7.11 development contributions (\$7.4m) and property development reserve (\$45m).

The financial strategy around assets recycling has changed as significant asset sales have not been progressed and no longer reliable for future planning. The 2023/24 LTFP provides for reduced asset sales of \$52.5m to fund co-contributions to projects funded from the s7.11 development contributions plan and a Property Development Reserve for major projects.

The reduced asset sales leaves a significant funding gap that needs to be addressed. New funding sources are required, in combination with a review of existing services or deferral of proposed capital expenditure. To address this funding gap the LTFP assumes scenarios which provide additional funding raised from a special rates variation. This would largely fund the infrastructure renewal and other major project initiatives proposed.

**Development Contributions** - The NSW Government has proposed changes to the development contributions system. Significant changes include the removal of community facilities, indoor recreation centres and public domain works from s7.11 plans and also reducing the contributions revenue Council would receive under s7.12 plans. Modelling commissioned by NSROC indicated that the impact of the changes for Ku-ring-gai could be a revenue reduction in the order of \$5m pa.

It is not known if the NSW Government intend to proceed with the proposed changes. If they are implemented without modification, it is likely that Council will need to reduce future capital works funded from development contributions.

## SOCIAL CONSIDERATIONS

Any repurposing or future divestment of the sites that result from reclassification would assist Council in meeting community expectations for the renewal and replacement of community infrastructure, such as the Marian Street Theatre and the St Ives High School Joint Use Indoor Courts.

## ENVIRONMENTAL CONSIDERATIONS

Where sites identified as containing areas of Biodiversity Significance under the KLEP 2015, the vegetation is mapped under the KLEP 2015 and protected through the instrument. Any change in use or ownership would not alter the current status of ecological consideration.

## COMMUNITY CONSULTATION

Community Consultation will occur following the receipt and instruction of any Gateway Determination from the Department of Planning and Environment. Planning proposals to

reclassify public land are required to be publicly exhibited for at least 28 days. Council is required to hold a public hearing when reclassifying land from community to operational. The public hearing is chaired by an independent chairperson.

## INTERNAL CONSULTATION

Consultation has been undertaken with the relevant internal sections of Council where required for this report. A Councillor site inspection for the subject sites was held on 13 April 2023 notes are attached at **Attachment A1**.

Councillors were briefed on this matter on 9-10 February and 22 May 2023.

## SUMMARY

In accordance with Council's resolutions of 16 March 2021 and 24 May 2022, a Planning Proposal to reclassify land from Community to Operational has been prepared for Council owned sites at 261 Mona Vale Road, St Ives; 1186-1188 Pacific Highway, Pymble; 1192 Pacific Highway, Pymble.

On 20 March 2023 the Ku-ring-gai Planning Panel provided their advice. This has been incorporated into the Planning Proposal.

The proposed reclassification of the sites is consistent with strategic planning directions including the *Greater Sydney Region Plan: A Metropolis of Three Cities*, the *North District Plan*, and Council's plans and strategies including: *Community Strategic Plan 2038*, *Local Strategic Planning Statement*, *Community Facilities Strategy* and the *Open Space Acquisition Strategy*.

The three sites are under-utilised and require substantial financial outlay to upgrade and improve their facility. Reclassification and discharge of some interests will increase useability and attraction of tenants and broaden Council's options for its assets including consideration of divestment.

There will be no change to the existing zoning, development standards, heritage listing nor to the status of biodiversity on the sites under this reclassification Planning Proposal.

Council has insufficient funding in the Long Term Financial Plan to sustainably manage and improve its existing portfolio of infrastructure assets and to meet community expectations. Reclassification to Operational land will provide options for the best, highest and most orderly and economic use of the sites, and enable Council to gather funds for the provision of community facilities in accordance with Council's strategic plans and policies.

## RECOMMENDATION:

- A. That a Planning Proposal to reclassify 261 Mona Vale Road, St Ives from Community land to Operational land be submitted to the Department of Planning and Environment for Gateway Determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
- B. That a Planning Proposal to reclassify 1186-1188 Pacific Highway, Pymble from Community land to Operational land be submitted to the Department of Planning and Environment for Gateway Determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.



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- C. That a Planning Proposal to reclassify 1192 Pacific Highway, Pymble from Community land to Operational land be submitted to the Department of Planning and Environment for Gateway Determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
- D. That upon receipt of a Gateway Determination for any or all of the above mentioned sites, the exhibition, public hearing and consultation process is carried out in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the Gateway Determination.
- E. That a report be brought back to Council at the end of the consultation process.
- F. That subject to a Planning Proposal for 1186-1188 Pacific Highway, Pymble being finally approved, a Conservation Management Plan be prepared to guide future use of the site, prior to any Council decision to dispose of all or part of the subject land.
- G. That subject to a Planning Proposal for 1186-1188 Pacific Highway, Pymble being finally approved, Council:
- i. prepare a masterplan for the subject site;
  - ii. prepare and submit a development application for subdivision, use, and development of the subject land; and
  - iii. prepare and approve site specific development controls for the subject site,
- so as to give the community some assurance as to ultimate development outcomes for the site, prior to any Council decision to dispose of all or part of the subject land.

Rathna Rana  
Senior Urban Planner

Craige Wyse  
Team Leader Urban Planning

Antony Fabbro  
Manager Urban & Heritage Planning

Andrew Watson  
Director Strategy & Environment

**Attachments:** A1 Site Inspection Notes

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|----|---|----------|---------------------|
| A2 | Planning Proposal - Reclassification of 3 sites at 261<br>Mona Vale Rd, St Ives; 1186-1188 Pacific Hwy, Pymble;<br>1192 Pacific Hwy, Pymble | Excluded | 2023/173356         |
| A3 | Financial Considerations and Permitted Uses - Town<br>Hall and Presbytery 1186-1188 Pacific Hwy, Pymble                                     | Excluded | <i>Confidential</i> |